

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10

11 ANTHONY McGINNIS, P-19835,
12 Plaintiff,
13 v.
14 A.T. RAMOS,
15 Defendant.
16
17

Case No.: 15-CV-2812 JLS (JLB)

**ORDER: (1) ADOPTING REPORT
AND RECOMMENDATION, AND (2)
GRANTING DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

(ECF Nos. 41, 46)

18
19 Presently before the Court are Defendant A.T. Ramos's Motion for Summary
20 Judgment, (ECF No. 41), and Magistrate Judge Jill L. Burkhardt's Report and
21 Recommendation concerning Defendant's Motion, ("R&R," ECF No. 46). Judge
22 Burkhardt ordered the parties file any objections no later than July 23, 2018. On July 26,
23 2018, Plaintiff Anthony McGinnis filed a motion for extension of time, (ECF No. 48),
24 which the Court granted, (ECF No. 49).¹ Plaintiff failed to oppose Defendant's Motion
25

26 ¹ The Court determined that Plaintiff's motion for extension of time was timely because of the mailing
27 date. *See Douglas v. Noelle*, 567 F.3d 1103, 1109 (9th Cir. 2009) (applying prisoner mailbox rule to
28 § 1983 cases). Plaintiff requested a sixteen or twenty-one day extension; the Court extended time to
respond by sixteen days. (ECF No. 49, at 2.) Twenty-one days has elapsed and Plaintiff has not filed his
objections.

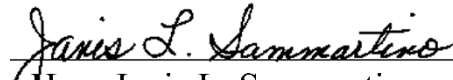
1 and failed to timely object to the Report and Recommendation.

2 Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1) set forth a district
3 court's duties in connection with a magistrate judge's R&R. The district court must "make
4 a de novo determination of those portions of the report to which objection is made," and
5 "may accept, reject, or modify, in whole or in part, the findings or recommendations made
6 by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also United States v. Raddatz*, 447
7 U.S. 667, 673–76 (1980); *United States v. Remsing*, 874 F.2d 614, 617 (9th Cir. 1989). In
8 the absence of timely objection, however, the Court "need only satisfy itself that there is
9 no clear error on the face of the record in order to accept the recommendation." Fed. R.
10 Civ. P. 72 advisory committee's note (citing *Campbell v. U.S. Dist. Court*, 501 F.2d 196,
11 206 (9th Cir. 1974)).

12 Here, Plaintiff failed to file timely objections to Judge Burkhardt's R&R. Having
13 reviewed the R&R, the Court finds that it is well reasoned and contains no clear error.
14 Accordingly, the Court **ADOPTS** in its entirety Judge Burkhardt's R&R (ECF No. 46),
15 and **GRANTS** Defendant's Motion for Summary Judgment, (ECF No. 41). This Order
16 concludes litigation in this case and the Clerk of Court **SHALL** close the file.

17 **IT IS SO ORDERED.**

18 Dated: August 28, 2018

19 
20 Hon. Janis L. Sammartino
21 United States District Judge
22
23
24
25
26
27
28